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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,231	09/17/2003	Thomas Scott Dreaper	CHESGC.0019P	7003

7590

11/22/2004

Weide & Miller, Ltd.
Bank West Building, 5th Floor
Suite 530
7251 W. Lake Mead Blvd.
Las Vegas, NV 89128

EXAMINER

LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

CS

Office Action Summary	Application No.	Applicant(s)	
	10/667,231	DREAPER ET AL.	
	Examiner	Art Unit	
	Benjamin H. Layno	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's argument filed 08/30/04 with respect to claims 1 and 3 argues that the 9's Up reference does not teach the limitation of adding the value of non-paired cards and dropping the most significant digit if the total value is over 10 in value, has been fully considered but is **not** persuasive. The Examiner maintains the 102 rejection of claims 1 and 3 in view of 9's Up, see below.
2. The Applicant's amendment to claim 5, and the introduction of new claims 7-10, filed 08/30/04, necessitated the withdrawing of the 102 rejection in view of 9's Up. However, this amendment necessitated a **new ground(s) of rejection** in view of the newly cited reference to Le. See below.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by 9's Up.

On page 2 of the 9's Up reference, the paragraph under the heading "RANKING THE HANDS" recites "If the total of the two cards is 10 or more, only the last digit is considered. (Thus, a 7 and an 8, totaling 15, would be considered a 5). All face and 10 values cards rank as 0.". Also on page 1 below the "9's UP RANKING CHART", under

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the heading "REMEMEBER:", it recites "The following cards are not pairs: 10-J, J-Q, Q-K, etc., but these hands are ranked the same (as "0"). A-10, A-J, A-Q, A-K are ranked the same ("1")". These recitations clearly disclose that 9's Up teach the limitation of adding the value of non-paired cards and dropping the most significant digit if the total value is over 10 in value.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 5, 6, 8 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Le.

The patent to Le discloses a card game having many of the steps recited in claims 5, 6, 8 and 10. Le's card game is played with a conventional deck of cards with **the face cards removed** resulting in a 40-card deck, col. 3, lines 36-40. Le's steps include: receiving a wager from one or more players, step (f), dealing four cards to each player position and dealer position, step (g), each player arranging the cards into a high hand and a low hand, step (k), comparing each player high hand and low hand to the dealer high hand and low hand, step (l), determining winning players and losing

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players, and collecting the wagers associated with losing players and providing payout to winning players, steps (m) –(q). Note, the ranking of hands in Le's game from highest to lowest is: pairs, highest to lowest, then, in non-paired hands, the sum total of the two cards having the highest least significant digit of the sum total of the numeric value of the cards, see column 3, line 41 to column 4, line 8.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Le.

In regard to claim 7, in Le's game if a player incorrectly arranges the high and low hands, it would have been obvious to a person having ordinary skill in the art to provide a rule requiring the house (dealer) to reconfigure the cards in a house way. This modification would have made Le's game progress more efficiently, preventing any delays.

11. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over (9's Up or Le) as applied to claims 1 and 8 above, and further in view of Potter et al.

The Applicant is referred to the teaching of Potter et al. in the first Office action. In view of such teaching, it would have been obvious to incorporate a joker card having

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a wild card feature to the 9's Up game or Le's game. This modification would have given the players the perception that they can receive higher ranking cards hands, thus making 9's Up and Le's game more exciting to play.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

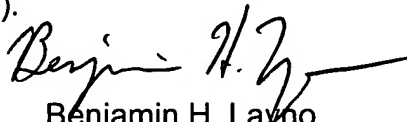
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571)272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3711

bhl